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*Counsel for Bristol Country Retirement System
and Proposed Lead Counsel for the Class*

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

DAVID KIPLING, Individually and on Behalf of
All Other Similarly Situated,

Plaintiff,

v.

FLEX LTD., MICHAEL M. MCNAMARA,
and CHRISTOPHER E. COLLIER,

Defendants.

)
) Case No. 5:18-cv-02706-LHK
)
) **CLASS ACTION**
)
) **RESPONSE OF BRISTOL COUNTRY**
) **RETIREMENT SYSTEM TO**
) **COMPETING MOTION FOR**
) **APPOINTMENT AS LEAD**
) **PLAINTIFF AND APPROVAL OF**
) **SELECTION OF LEAD COUNSEL**
)
) Date: September 26, 2019
) Time: 1:30 p.m.
) Courtroom: 8, 4th Floor
) Judge: Hon. Lucy H. Koh

1 Lead Plaintiff movant Bristol County Retirement System (“Bristol County”) respectfully
2 files this response to the competing motion of movants National Elevator Industry Pension Fund
3 and Toronto Transit Commission Pension Fund Society (together, the “Pension Fund Movants”).
4 *See* Dkt. No. 78.

5 On June 4, 2019, Bristol County and the Pension Fund Movants each timely moved for
6 appointment as Lead Plaintiff in the above-captioned action. Dkt. Nos. 77 and 78. The Private
7 Securities Litigation Reform Act (“PSLRA”) provides that the Court “shall appoint as lead
8 plaintiff the member *or members* of the purported class that the court determines to be most
9 capable of adequately representing the interests of class members.” 15 U.S.C. § 78u-
10 (4)(a)(3)(B)(i) (emphasis added). The PSLRA further instructs that “the court shall adopt a
11 presumption that the most adequate plaintiff” to be lead plaintiff “is the person *or group of*
12 *persons*” that either filed the complaint or timely moved for lead plaintiff, has the largest
13 financial interest in the relief sought, and satisfies Rule 23 of the Federal Rules of Civil
14 Procedure. 15 U.S.C. § 78u-4(a)(3)(B)(iii)(I) (emphasis added).

15 It appears that the Pension Fund Movants’ possess the “largest financial interest in the
16 relief sought by the class” as required by the PSLRA. 15 U.S.C. § 78u-4(a)(3)(B)(iii)(I); *see also*
17 Dkt. No. 78. Accordingly, Bristol County does not oppose the appointment of the Pension Fund
18 Movants as Lead Plaintiff.

19 Given its prior role as Lead Plaintiff in this Action, Bristol County also stands ready to
20 assist in the leadership transition and prosecution of this Action, including serving as an
21 additional class representative if warranted. Bristol County and its counsel have performed
22 substantial work advancing this litigation to date, including researching and drafting the
23 comprehensive Amended Complaint and establishing careful and confidential relationships with
24 potential confidential witnesses in the case that might serve important roles in future pleadings.
25 In order to prevent duplication of work by the Pension Fund Movants and their counsel, Bristol
26 County and its undersigned counsel are willing to work with, and at the direction of, counsel for
27 the Pension Fund Movants during the leadership transition of the Action and as needed going
28

1 forward. This would benefit the putative Class by avoiding the duplication of a significant
2 amount of attorney work.

3 For the foregoing reasons, Bristol County respectfully does not oppose the Pension Fund
4 Movants' Lead Plaintiff application. This notice is not a waiver of Bristol County's ability to
5 participate in any recovery obtained on behalf of the Class or to serve as a lead plaintiff or
6 representative party.

7
8 DATED: June 18, 2019

Respectfully submitted,

9
10 **THORNTON LAW FIRM LLP**

11 /s/ Guillaume Buell

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